

PUBLIC PROTECTION CABINET
Kentucky Claims Commission
(As Amended at ARRS, April 12, 2018)

802 KAR 2:010. Negligence claims before the Kentucky Claims Commission.

RELATES TO: KRS 49.020, 49.040, 49.090, 49.120

STATUTORY AUTHORITY: KRS 49.020(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 49.020(5) authorizes~~requires~~ the commission to promulgate administrative regulations to carry out the provisions and purposes of the commission. This administrative regulation establishes requirements and procedures for filing and adjudicating negligence claims under the jurisdiction of the commission and the method of pleading and practice before the commission.

Section 1. Filing Claims. (1) A claim shall:

(a) Be legibly written, typed, or printed;

(b) Contain:

1. The name, address, telephone number, and email~~e-mail~~ address of the claimant;

2. The amount of the claim; and

3. A statement of the facts that:

a. Shows that the claimant may be entitled to relief pursuant to KRS 49.010 through 49.180; and

b. Enables the respondent agency to investigate the claim and prepare its defense; and

~~(c)~~~~(e.)~~ Be filed by mail, electronic mail at <mailto:negligenceclaims@ky.gov>, or delivered in person to the commission's office.

(2) An attorney representing a claimant before the commission shall enter an appearance at the time the complaint is filed or as soon thereafter as possible.

(3) Any orders related to the claim and copies shall be served on the opposing party and the hearing officer presiding over the claim.

(4) An individual who is not an attorney shall not represent any other individual or an entity party to a claim.

Section 2. Response to Claims. (1) The commission shall submit a copy of each claim to the head of the agency against which the claim is filed.

(2) The agency against which a claim has been filed shall answer the claim or file a responsive motion in writing to the commission and the claimant within thirty (30) days.

(3) The commission shall consider the claim at its next regular or special meeting if:

(a) The response filed by the affected agency admits liability; or

(b) The respondent agency fails to respond to the commission concerning its investigation within thirty (30) days.

(4) If the agency denies negligence in a claim requiring a hearing pursuant to KRS 49.090(3), a hearing officer shall be assigned, and the commission shall notify the claimant and the head of the affected agency of the assignment.

(5) The commission may grant an extension of time to file the answer or response to the claim upon:

(a) Agreement of the parties; or

(b) A showing of good cause demonstrating that the purpose of the request is not just to delay proceedings.

Section 3. Prehearing or Status Conference and Hearing Schedule. (1) The hearing officer shall schedule a telephonic prehearing or status conference:

(a) Within thirty (30) days of the assignment of the claim; and

(b) Upon reasonable notice to all parties, **which consists of prior notice of not less than five (5) days, unless agreed to otherwise by the parties.**

(2) The hearing officer may convene the telephonic prehearing or status conference or order the affected state agency to convene the conference.

(3) A prehearing or status conference may be used to discuss jurisdictional matters, settlement possibilities, discovery, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas, mediation, and other matters that will promote the orderly and prompt conduct of the hearing.

(4) The hearing officer and the parties shall set an agreed date for the hearing at the prehearing or status conference. If the hearing officer and parties cannot agree upon a hearing date, the hearing officer shall set the matter for hearing no later than six (6) months from the date of the conference, unless the parties have otherwise agreed.

(5) Upon conclusion of the prehearing or status conference, the hearing officer shall issue an order including all matters determined at the prehearing or status conference.

(6) The hearing officer shall notify the commission of the date and time for the hearing. The executive director, or his or her designee, shall:

(a) Reserve a place within the proper venue to conduct the hearing;

(b) Select a court reporter to be present at the hearing to record the proceedings; and

(c) Notify the parties and the court reporter of the date, time, and place of the hearing.

Section 4. Conduct of Hearing. Except as otherwise established in KRS Chapter 49 or this administrative regulation, the conduct of hearings shall be governed by the procedures established in KRS Chapter 13B.

MARCUS CAREY, Chair

DAVID A. DICKERSON, Secretary

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